

ESTTA Tracking number: **ESTTA433139**

Filing date: **09/29/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92052197
Party	Defendant Supercar Collectibles Limited
Correspondence Address	ROBERT D BUYAN STOUT UXA BUYAN & MULLINS LLP 4 VENTURE , STE 300 IRVINE, CA 92618 UNITED STATES rbuyan@patlawyers.com
Submission	Testimony For Defendant
Filer's Name	Robert D. Buyan
Filer's e-mail	rbuyan@patlawyers.com
Signature	/Robert D. Buyan/
Date	09/29/2011
Attachments	Testimony_DAHLBERG-Confidential.pdf ( 11 pages )(543508 bytes )

# CONFIDENTIAL

Scott excerpts

August 30, 2011

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Unites States Trademark  
Registration No. 2,049,847

Terri Yenko Gould, Executor,

Petitioner,

vs

General Marketing  
Capital, Inc./Supercar  
Collectables Limited,  
Respondent.

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DEPOSITION OF  
SCOTT D. DAHLBERG  
CONFIDENTIAL EXCERPTS

The Telephonic Deposition of SCOTT D.  
DAHLBERG taken pursuant to Notice of Taking  
Deposition, taken before Vicki A. Gardner, a  
Notary Public in and for the County of  
Ramsey, State of Minnesota, taken on August  
30, 2011, at 701 4th Avenue South, Suite 500,  
Minneapolis, Minnesota, commencing at  
approximately 1:00 p.m.



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## APPEARANCES VIA TELEPHONE:

### ON BEHALF OF THE PLAINTIFF:

George E. Bullwinkel  
425 Woodside Avenue  
Hinsdale, Illinois 60521

### ON BEHALF OF THE DEFENDANT:

Robert D. Buyan  
Stout, Uxa, Buyan & Mullins, LLP  
4 Venture, Suite 300  
Irvine, California 92618

Also present was James Sullivan.

\*\*\*

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Pages 12 and 13



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1 BY MR. BUYAN:

2 Q. We'll ask her to hand you a copy of what has  
3 been marked as Respondent's Exhibit 36.  
4 That's a confidential exhibit pursuant to the  
5 protective order in this case.

6 MR. BULLWINKEL: So agreed.

7 BY MR. BUYAN:

8 Q. Let me know when you have that document.

9 A. Yes, I have that document.

10 Q. Can you tell me what that document is?

11 A. This is an agreement between Heth and  
12 Supercar Collectables. A settlement  
13 agreement in 1997.

14 We were in the midst of producing  
15 our product and we needed to quickly resolve  
16 this issue with David Heth so we could  
17 continue to produce our product that we had  
18 scheduled.

19 Q. Did Supercar Collectables pay Mr. Heth money  
20 as part of this agreement?

21 A. Yes, we did.

22 Q. Do you recall how much?

23 A. It was \$20,000.

24 Q. And in return for that, did Supercar  
25 Collectables receive a license under Mr.



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1 Heth's trademark registration?

2 A. Yeah. We received an agreement so we could  
3 continue to produce our Yenke toy cars and  
4 there would be no dispute from him on that  
5 part, nor would we try and challenge his  
6 trademark.

7 Q. At any time during this dispute, was there  
8 any involvement of the estate of Donald Yenke  
9 or any members of the Yenke family?

10 A. No, there was not.

11 Q. Did you receive any inquiries from the estate  
12 of Donald Yenke or any members of the Yenke  
13 family?

14 A. We did not.

15 MR. BUYAN: At this point, let's  
16 switch back to a non-confidential transcript.

17

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DEPOSITION ERRATA SHEET

Our Assignment No. 267850

Case Caption: Terri Yenke Gould

vs.

General Marketing Capital,  
Inc., et al

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury  
that I have read the entire transcript of  
my telephonic Deposition, outside the  
presence of the court reporter, taken in the  
captioned matter or the same has been read to  
me, and the same is true and accurate, save  
and except for changes and/or corrections, if  
any, as indicated by me on the DEPOSITION  
ERRATA SHEET hereof, with the understanding  
that I offer these changes as if still under  
oath.

Signed on the 21<sup>ST</sup> day of SEPT, 2011.

*Scott D. Dahlberg*  
SCOTT D. DAHLBERG

DEPOSITION ERRATA SHEET

Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change  
to: \_\_\_\_\_

Reason for change: \_\_\_\_\_

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Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change  
to: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

SCOTT D. DAHLBERG

DATE: \_\_\_\_\_

9/21/11



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1 STATE OF MINNESOTA )

2  
3 COUNTY OF RAMSEY )

4 Be it known that I took the  
5 telephonic deposition of SCOTT D. DAHLBERG on  
6 August 30, 2011;

7 That I was then and there a  
8 notary public in and for the County of  
9 Ramsey, State of Minnesota, and that by  
10 virtue thereof I was duly authorized to  
11 administer an oath;

12 That the witness before  
13 testifying was by me first duly sworn to  
14 testify the whole truth and nothing but the  
15 truth relative to said cause;

16 That the testimony of said  
17 witness was recorded in stenotype by myself  
18 and transcribed into typewriting under my  
19 direction, and that the deposition is a true  
20 record of the testimony given by the witness  
21 to the best of my ability;

22 That I am not related to any of  
23 the parties hereto nor interested in the  
24 outcome of the action;

25 That the reading and signing by  
the witness and Notice of Filing were not  
waived;

Witness my hand and seal this 8th  
day of September, 2011.

*Vicki A. Gardner*  
Vicki A. Gardner  
COURT REPORTER





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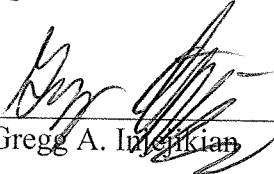
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing **Confidential Testimony of Scott D. Dahlberg** has been served on George E. Bullwinkel, Esq. by mailing said copy on September 29, 2011, via electronic mail and First Class Mail, postage prepaid to:

George E. Bullwinkel  
Attorney at Law  
425 Woodside Avenue  
Hinsdale, IL 60521

  
\_\_\_\_\_  
Gregg A. Intestikian